

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

|  |   |                        |
|--|---|------------------------|
| Robert McAbee, #271620, a/k/a          | ) |                        |
| Robert Joseph McAbee,                  | ) | C/A No.: 6:06-2749-MBS |
|  | ) |                        |
| Plaintiff,                             | ) |                        |
|  | ) |                        |
| vs.                                    | ) |                        |
|  | ) | <b>ORDER</b>           |
| Warden George Hagan; Associate         | ) |                        |
| Warden John R. Pate; Lt. Washington;   | ) |                        |
| I.C.C. Kathy Hudson; Dr. T. Byrne; all | ) |                        |
| in the individual capacities,          | ) |                        |
|  | ) |                        |
| Defendants.                            | ) |                        |
| _____                                  | ) |                        |

Plaintiff Robert McAbee, is an inmate in custody of the South Carolina Department of Corrections who currently is housed at the Allendale Correctional Institution in Fairfax, South Carolina. Plaintiff, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983, alleging Defendants violated his rights under the Constitution and under the Americans With Disabilities Act, (ADA), 42 U.S.C. §§ 12101 et seq.

This matter is before the court on Defendants' motion for summary judgment, which motion was filed January 19, 2007. By order filed January 22, 2007, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), Plaintiff was advised of the applicable procedures and the possible consequences if he failed to respond adequately. Plaintiff filed no response to Defendants' motion.

In accordance with 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge William M. Catoe for pretrial handling. On April 5, 2007, the Magistrate Judge filed a Report and Recommendation in which he recommended that the case be dismissed pursuant to Fed. R. Civ. P. 41(b). Plaintiff filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. The case is dismissed with prejudice pursuant to Fed R. Civ. P. 41(b).

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

May 7, 2007

Columbia, South Carolina

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**